

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.5494 of 2017**

- Rajendra Yadav S/o Late Bantiya Yadav, Aged About 44 Years
R/o Jawahar Nagar, Metaguda Ward Jagdalpur District Bastar,
Chhattisgarh, (Correct Address).

---- Applicant

Versus

- State Of Chhattisgarh Through The Police Station Bodhghat
District Bastar, Chhattisgarh.

---- Respondent

 For Applicant : Shri Pravin Tulsyan, Advocate
 For Respondent/State : Shri Wasim Miyan, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

12.9.2017

Heard the matter finally.

2. This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with Crime No.247/2017 registered in Police Station Bodhghat, Distt. Bastar (CG) for the offence punishable under Section 34(2) of the Chhattisgarh Excise Act, 1915.

3. Learned counsel for the applicant submits that the applicant has been arrested on 09.8.2017, charge sheet is not yet filed, the applicant has been remanded by Chief Judicial Magistrate, Jagdalpur. As per the allegation, 5.400 bulk liters of foreign liquor has been seized from the possession of the applicant. Learned counsel for the applicant would submit that the applicant will not commit any offence in future, as the trial may take some time for its conclusion, he may be enlarged on bail.

4. Per contra, learned counsel for the respondent/State opposed the arguments advanced on behalf of the applicant on the basis of the criminal antecedent of the applicant which are as follows:-

Sl. No.	Crime No.	Offence U/S
01.	448/2010	36C of the CG Excise Act, 1915
02.	365/2011	36A of the CG Excise Act, 1915
03.	419/2011	36C of the CG Excise Act, 1915
04.	01/2012	36C of the CG Excise Act, 1915
05.	228/2012	36A of the CG Excise Act, 1915
06.	236/2012	36A of the CG Excise Act, 1915
07.	271/2013	36C of the CG Excise Act, 1915
08.	218/17	34(1)(a) of the CG Excise Act, 1915

5. Perused the entire material.

6. The applicant is in custody for one month and three days, charge sheet is not yet filed, though aforementioned matters have been registered against the applicant, but as the said matters were bailable one, and nothing to demonstrate that the applicant received substantial jail sentences in those matters, the trial may take some time for its conclusion, as submitted he will not commit any offence in future and considering the other facts, I am inclined to grant one last opportunity to the applicant so that he will not

commit any offence in future and shall remain peacefully in the society.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.50,000/- with two separate solvent sureties of Rs.25,000/- to the satisfaction of Chief Judicial Magistrate, Jagdalpur for his appearance before the said Court as and when directed.

9. It is made clear that this order granting bail to the applicant shall stand cancelled automatically without reference to the Bench by the Court below if (i) the trial Court finds that the applicant suppressed filing or pendency of any other application for grant of bail before this Court or the Hon'ble Apex Court intentionally; (ii) the applicant does not cooperate in the trial; (iii) the applicant is found to be involved in any offence of the like nature; and (iv) the trial Court finds that the applicant remains absent without any sufficient and cogent reason. If bail is cancelled automatically in view of the above, the Court below may proceed further under the provisions of law, under intimation.

10. It is further directed that till the conclusion of the trial, present applicant shall mark his appearance before the Station House Officer/IO, Police Station Bodhghat, Distt. Bastar **on First and Third Monday of every month at 11.00 am.** It is further made clear that if the applicant without any cogent and proper reason does not appear before the Police of Police Station

Badhghat, Distt. Basar as directed, the concerned police may inform the trial Court for the act and if his non appearance found to be without any proper and cogent reason, the instant order granting bail to the applicant shall automatically be cancelled by the trial Court without further reference to the Bench, under intimation.

11. Registrar (Judl.) is further directed to send a copy of the order to the concerned trial Judge and also to provide a copy of the order to the respondent/State for placing it with the case diary to be returned to the concerned police for compliance and information.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE